

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE

_____)	
INDUSTRIAL COMMUNICATIONS)	
AND ELECTRONICS, INC., et al.,)	
Plaintiffs,)	
)	
v.)	
)	
TOWN OF ALTON, NEW HAMPSHIRE,)	Docket No. 1:07-CV-82-JL
Defendant,)	
)	
and)	
)	
DAVID SLADE AND MARILYN SLADE,)	
Intervenor-Defendants)	
_____)	

PARTIAL OBJECTION TO MOTION FOR EXTENSION OF TIME

NOW COME the Plaintiffs, Industrial Communications and Electronics, Inc., RCC Atlantic, Inc. d/b/a Unicef, and U.S.C.O.C. of New Hampshire RSA #2, Inc. d/b/a U.S. Cellular (collectively “the Applicants”), by and through their attorneys, Devine, Millimet & Branch, Professional Association, and object, in part, to the Slades’ Motion for an Extension of Time, as follows:

1. The Applicants and the Town filed a Joint Motion for Expedited Hearing on June 17, 2011, which was discussed during the telephonic conference held on June 20, 2011. The Court expressed a strong preference to proceed on the Applicants’ pending Motion for Summary Judgment without any additional submissions from any party, although it indicated it would consider additional submissions on the limited issue of additional alternatives considered by the Applicants after the close of the summary judgment record, and also stated that it would allow

the Slades to file a response to the Joint Motion before making a final decision in this regard.

Counsel for the Slades indicated he would file such a response “by the end of the week.”

2. There also was a discussion about the timing of the hearing. Counsel for the Applicants stated they would prefer a hearing on the summary judgment motion to take place as soon as possible, for the reasons explained in the Joint Motion for Expedited Hearing filed on June 17, 2011. Counsel for the Slades advised the Court that he could be ready for a hearing on the motion for summary judgment in “60 days,” following which all parties and the Court agreed that a hearing would occur on August 26, 2011. Although no order has yet been issued in this regard, it was the Applicants’ understanding that this date was firm; the only open issue was whether the Slades would ask for the opportunity to make additional submissions or not.

3. Two days later, counsel for the Slades filed a motion to withdraw and new counsel filed appearances. New counsel then requested an extension of time until July 12, 2011 to respond to the Joint Motion.

4. The Applicants have no objection to allowing new counsel until July 12, 2011 to respond to the Joint Motion, but they do object to any further delay in the hearing of the pending Motion for Summary Judgment, presently scheduled for August 26, 2011, and ask that the hearing proceed as agreed to. New counsel has two months to prepare for oral argument on the Motion, which is ample time. In addition, the right of the Applicants to have their claims resolved and the policy of “expedited” relief expressly set forth in the applicable statute, *see* 47 U.S.C. §332(c)(7)(B)(v), should not be frustrated merely because the Slades have decided, after more than four years of litigation, to retain new counsel for reasons apparently unrelated to their original counsel’s availability.

5. The Applicants note that the Slades mention something in their Motion about being “focused on settlement negotiations” with the Town for several weeks. The Applicants are completely unaware of any such negotiations, which is odd given that as plaintiffs they are the only parties in this case that possess claims for relief, and do not understand how their claims could be settled without their participation and consent.

WHEREFORE, for all the foregoing reasons, the Applicants respectfully request that this Honorable Court enter an order:

- A. Scheduling a hearing on the Motion for Summary Judgment on August 26, 2011, as previously agreed among all counsel and the Court;
- B. Allowing the Slades until July 12, 2011 to respond to the Joint Motion filed on June 17, 2011; and,
- C. Granting such other and further relief as the Court deems just and equitable.

Respectfully submitted,

INDUSTRIAL COMMUNICATIONS AND
ELECTRONICS, INC., RCC ATLANTIC, INC.
d/b/a UNICEL and U.S.C.O.C. OF NEW
HAMPSHIRE RSA #2, INC. d/b/a U.S. CELLULAR

By their attorneys,

DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION

Dated: June 24, 2011

By: /s/ Steven E. Grill
Steven E. Grill, Esquire (No. 7896)
111 Amherst Street
Manchester, NH 03101
(603) 669-1000
SGrill@DevineMillimet.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing will be sent to counsel of record this day via the Court's Electronic Case Filing system.

Date: June 24, 2011

By: /s/ Steven E. Grill
Steven E. Grill, Esquire (No. 7896)